U.S. House of Representatives
Committee on Transportation and Infrastructure
Washington, DC 20515

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February 12, 2008

SUMMARY OF SUBJECT MATTER

TO: Members of the Committee on Transportation and Infrastructure

FROM: Subcommittee on Highways and Transit Staff and the Subcommittee on Railroads, Pipelines, and Hazardous Materials Staff

SUBJECT: Hearing on Reviewing the National Surface Transportation Policy and Revenue Study Commission Report: *"Transportation for Tomorrow"*

PURPOSE OF HEARING

The Committee on Transportation and Infrastructure is scheduled to meet on Wednesday, February 13, 2008, at 10:00 a.m., to receive testimony from the chair of the National Surface Transportation Policy and Revenue Study Commission (Commission), representatives of state and local transportation agencies and a representative of the business community regarding the Commission's recommendations on preserving and enhancing the nation's intermodal surface transportation system to meet future accessibility, economic, and quality-of-life needs.

The Committee on Transportation and Infrastructure held an earlier hearing on these issues on January 17, 2008. Secretary of Transportation Mary Peters, who is the chair of the Commission and does not support some of the recommendations of the Commission report, did not appear at that hearing. This hearing is intended, in part, to provide her an opportunity to discuss her views on the report, her vision of the nation's surface transportation system, and her view of the federal role in developing that system, and the methods of financing such development.

BACKGROUND

Congress established the National Surface Transportation Policy and Revenue Study Commission ("Commission") in Section 1909 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users ("SAFETEA-LU"). In establishing the Commission, Congress charged it with forecasting the surface transportation system necessary to support our economy 50 years in the future. The analysis is anticipated to enable lawmakers to establish long-term goals regarding the transformation of the surface transportation system, and to move beyond simply making changes at the margins to the existing system. It was also hoped that the Commission's recommendations would help Congress formulate short-, medium-, and long-term strategies necessary to achieve these goals, as well as mechanisms to finance the investments necessary to meet these goals. It was Congressional intent that the Commission's report would aid efforts to develop a surface transportation system that will support our nation's economic competitiveness, growing population, and improve quality of life.

Congress provided the Commission a very broad mandate to: (1) project the expected demographics and business uses that will impact the surface transportation system 15, 30, and 50 years in the future; (2) determine the expected uses of our surface transportation system in the same timeframes to support a strong and competitive economy, including recommendations regarding design and operational standards, Federal policies, and legislative changes; and (3) develop short-term and long-term alternatives to supplement or replace the Federal fuel excise taxes as the principal revenue source to support the Federal Highway Trust Fund.

Chaired by the Secretary of the U.S. Department of Transportation, the Commission is comprised of 12 members. The Commission includes eight Republican appointees and four Democratic appointees. By law the Secretary of Transportation was appointed to the Commission and named chairperson. President Bush appointed three members of the Commission. Then-Speaker Hastert, then-Minority Leader Pelosi, then-Majority Leader Frist, and then-Minority Leader Reid each appointed two members of the Commission. The Commissioners represent Federal, state and local governments; metropolitan planning organizations; transportation-related industries; and public interest organizations.

Since May 2006, the Commission has met 22 times to hear about the challenges facing America's surface transportation network. Throughout this process, the Commissioners have heard testimony from national transportation advocates, policymakers, industry, labor, and from the general public. The Commission held ten field hearings around the country, where the Commissioners heard testimony from 231 witnesses. The Commission also met 12 times in Washington, D.C., where they heard testimony from 62 witnesses.

Throughout this process of hearings and public meetings, the Commission determined that several themes emerged:

1. The Federal government needs to play a continued role in the nation's transportation system. The Federal role must be focused on core activities, and Federal regulations need to be reformed to deliver projects more efficiently.

2. Far greater surface transportation investment is necessary by all levels of government and the private sector.

3. Structural changes must occur in the program to address metropolitan and freight congestion.

COMMISSION RECOMMENDATIONS

The Commission's report, which is supported by 9 of the 12 Commissioners, concludes that incremental changes to the existing Federal surface transportation system are no longer acceptable. The Commission recommends a "new beginning," and expresses concerns with reauthorizing the Federal surface transportation program in its current form. This conclusion is based on the finding that the nation is outgrowing the current surface transportation system, threatening passenger and freight mobility and economic competitiveness. It is also based on the conclusion that the program has lacked a national vision and purpose since the completion of the Interstate System, which has undermined the public's understanding of the importance of continued surface transportation investment.

The new Federal compact the Commission envisions includes:

- A strong Federal role in surface transportation;
- Increased expenditures from all levels of government and the private sector;
- A commitment to the more effective use of tax dollars;
- Federal funding that is conditioned on performance measures and cost effectiveness; and
- Program reform to eliminate waste and delays in program delivery.

SURFACE TRANSPORTATION NEEDS ANALYSIS AND INVESTMENT GAP

The Commission report identifies a significant surface transportation investment gap, and calls for an annual investment level of between $225 and $340 billion—by all levels of government and the private sector—over the next 50 years to upgrade all modes of surface transportation (highways, bridges, public transit, freight rail and intercity passenger rail) to a state of good repair. The current the annual capital investment from all sources in all modes of transportation is $85 billion.

Currently, $68 billion is invested annually from all sources in capital improvements to Federal-aid **highways and bridges**. According to the analysis in the report's base case scenario, sustaining this rate of investment (in constant 2006 dollars) over an extended period of time would lead to significant deterioration in system operational performance and physical condition. The Commission's highways base case analysis found that:

- Delays experienced by travelers on principle arterial highways to increase by one-fifth by 2020, by one-half by 2035, and double by 2050.
- The situation would be more acute in urban areas where delays are projected to grow by over one-half by 2020, more than double by 2035, and quadruple by 2055.
- The percentage of vehicles miles traveled occurring on National Highway System roadways that meet U.S. DOT's standard for "acceptable" ride quality would decline from approximately 85 percent in 2005 to just below 60 percent in 2055.

Currently, **transit** capital investment from all sources is approximately $13 billion annually. The Commission's base case transit analysis found that if the current level of transit capital investment is maintained (in constant 2006 dollars), without significant changes to the current institutional structure, transit ridership would grow due to growth in population, however, transit's marketshare and the overall condition of transit assets would decline over time.

With regard to **freight rail**, if the forecast of Global Insight, Inc.'s economic output of the U.S. is correct and total freight movement increases 92 percent over the next 30 years, the performance of our nation's freight rail system will degrade significantly if it maintains its current market share unless there are expansions to the capacity of the system. For example, currently 88 percent of primary freight rail currently operates at levels below its theoretical capacity, meaning there is sufficient capacity to accommodate periodic maintenance activities and to recover from incidents that interfere with routine operations. Further, nine percent operates near its theoretical capacity and three percent operates at its theoretical capacity limit, meaning there is limited ability to accommodate maintenance needs or accommodate incidents.

However, if there is no additional capacity added by 2035, the Commission projects that the percentage of rail corridors operating below capacity would decline to 44 percent and corridors operating at capacity would increase to 15 percent and corridors operating above their theoretical capacity would increase to 30 percent, which is characterized by unstable flows and service breakdown conditions. This situation would be experienced in terms of routine service interruptions and a constant questionability of product delivery.

In identifying the long-term capital investment needs, the Commission's analysis developed a number of scenarios to determine the investment levels necessary to maintain or improve the operating performance and condition of the current surface transportation network. As noted above, the report calls for a total investment level from all sources in the range of $225 billion to $340 billion annually. The report analysis specifies average annual investment levels over the 50-year period 2005-2055 of:

- $185 billion to $276 billion annually for highways;
- $26 billion to $46 billion for public transportation;
- $5.3 billion to $7.7 billion for freight rail; and
- $7.4 billion to $10.6 billion for intercity passenger rail.

The highway investment scenarios analyzed in the report range from the estimated costs of maintaining current condition and performance levels, to more aggressive investment strategies designed to reflect the impact of maximum levels of cost-beneficial investments. The low end of the range assumes aggressive strategies to reduce energy consumption and travel demand, as well as implementation of new technologies to improve operational performance. A key aspect of this analysis is the extent of peak-hour congestion pricing in urban areas. The high end of the range assumes aggressive expansion of the highway system capacity, including efforts to improve rural connectivity and separate freight and passenger traffic.

For public transportation, the low end of the scenario range represents the estimated cost of maintaining the current level of condition and operating performance. The high end of the range represents the estimated cost of improving the current level of conditions and operating performance while accommodating significantly higher levels of transit ridership and market-share.

The Commission's freight rail investment analysis finds that the annual funding level necessary to maintain freight rail's market share would be approximately $5.3 billion a year through 2035. The Commission projects that the average cost will increase to $5.7 billion a year between 2035 and 2055, reflecting the assumption that less expensive capacity improvement options will be exhausted by 2035, leaving only the more expensive options of adding second, third, or fourth tracks. The high end of the range, $7.7 billion a year, assumes increasing rail's market share 20 percent, which would require 34 percent additional rail capacity investment over the same time period.

For intercity passenger rail, the Commission projects that re-establishing the national intercity passenger rail network between now and 2050 would cost $357.2 billion in capital expenses, for an annualized cost of $8.1 billion. However, the range of costs reflects different periods of intercity passenger rail needs. The immediate annual capital costs from 2007 to 2015 are $7.4 billion a year, reflecting limited new services coming online along with upgrading existing rail service. From 2016 to 2030, the Commission projects the majority of new services will be coming online and further upgrades will be required for existing rail service that will reflect the high end of the range at $10.6 billion a year. Finally, the low end of the range reflects the long-term capital cost needs from 2031 to 2050 of $6.6 billion a year.

PROGRAMMATIC RESTRUCTURING TO ADVANCE TO THE NATIONAL INTEREST

To address the concern over the lack of a national vision, the Commission recommends condensing the numerous existing Federal surface transportation programs down to ten areas of Federal interests. These ten focus areas are based on a desired outcome, as opposed to the current modal organization of the surface transportation system. DOT, in conjunction with state and local governments, multi-state coalitions, users, and public and private stakeholders, would establish a set of performance standards in each of these areas. The approach would be mode neutral, and would allow local and state governments to choose the modal options best suited to achieve the outcomes required to meet its performance standards.

The ten functional program areas that the Commission recommends are:

- **Rebuilding America: A National Asset Management Program**
  This program aims to keep America's existing infrastructure properly maintained in an efficient and cost-effective manner. It would focus on the Interstate system, the NHS, transit assets, intercity passenger and freight rail, and intermodal connectors, all areas the Commission identified as having a strong Federal interest. State and local governments would be required to have a program of asset maintenance that conforms to national standards.

- **Freight Transportation: A Program to Enhance Global Competitiveness**
  This program would provide public investment in crucial, high-cost infrastructure on the Federal-aid highway system, with a focus on the Interstate System and the NHS. It would also include public-private partnerships that have the potential for national and regional benefits, including facilitating international trade, relieving congestion, and creating intermodal connections around ports.

- **Congestion Relief: A Program of Improved Metropolitan Mobility**
  This program would aim to reduce congestion in metropolitan areas of one million or more in population. The report notes that this would involve substantial capital investment and require comprehensive local strategies. Projects under this program would include demand management initiatives such as congestion pricing, improved operations, increased transit capacity and ridership, and expanded highway capacity.

- **Saving Lives: A National Safe Mobility Program**
  This program would create a national plan for safety that would inform investment decisions in all surface transportation programs and would create new safety initiatives as well. DOT would develop the national strategy, and the Commission recommends a goal of cutting surface transportation fatalities in half by the year 2025. States and metropolitan areas would be responsible for developing broad strategies to reach their specific goals across all modes.

- **Connecting America: A National Access Program for Smaller Cities and Rural Areas**
  This program aims to bring surface transportation connections to the rural and urban areas that were not developed when past highway and rail networks were created. The program goal is to create high-performing connections for freight and passengers in these underserved areas.

- **Intercity Passenger Rail: A Program to Serve High-Growth Corridors By Rail**
  The Commission views intercity passenger rail as a critical missing link in the nation's surface transportation infrastructure. This program would create an intercity passenger rail service that primarily connects population centers within 500 miles of each other and provides competitive, reliable, and frequent service. This would include investment to support capacity and performance requirements for both passenger and freight service, and the development and expansion of rights-of-way that would allow for separate passenger and freight operations.

- **Environmental Stewardship: Transportation Investment Program to Support a Healthy Environment**
  The Commission recommends investing 7 percent of the total Federal surface transportation investment in environmental stewardship. This program would give more flexibility to the states in their efforts to mitigate congestion, and would have specific emphasis on four broad categories: air quality, including smoother traffic flow, intermodal freight options, and encouraging carpooling and transit; vehicle retrofit; transportation enhancements; and programmatic mitigation, including banking both money and land to preserve endangered habitats. Ten percent of the program funds would be spent on each of the four categories, with the remaining 60 percent for the state's discretion.

- **Energy Security: A Program to Accelerate the Development of Environmentally-Friendly Replacement Fuels**

This program calls for investing $200 million per year over the next decade into transportation energy research and development in conjunction with ongoing research being conducted by the U.S. Department of Energy.

- **Federal Lands: A Program for Providing Public Access**
  This program would continue the Federal government's role in providing transportation access to Federal lands. The goal of this program is to alleviate the pressure on Federal lands coming from increased tourism and urban growth in nearby areas.

- **Research, Development, and Technology: A Coherent Transportation Research Program for the Nation**
  This program would monitor research efforts across America and internationally, and would target funds to research gaps. It would also invest in robust, predictable data collection and performance modeling.

The Commission does not envision that these programs would operate independently of one another. Because individual projects may contribute to achieving performance goals in multiple functional programs, the Commission believes that coordination of planning activities required for each program will be essential.

The current surface transportation program requires state and local governments to undertake a comprehensive public planning process, which should consider land use, development, safety, and security issues, to develop a plan to meet the region's transportation goals. The Commission's recommendations would differ in that the plans called for in the report would have to be developed to meet specific performance standards, and major projects identified in the report would have to be shown to be cost-beneficial. The Commission recommends that planning activities continue to be funded through a percentage of the total authorized funding for the Federal surface transportation program. These plans would be designed to meet national performance goals, and would serve as the basis for apportioning funds to the States on a "cost-to-complete" basis consistent with a national strategic plan compiled by the U.S. DOT.

NATIONAL SURFACE TRANSPORTATION COMMISSION ("NASTRAC")

In addition to these 10 functional programs, the Commission recommends the creation of an independent NASTRAC, modeled after the Postal Regulatory Commission, the Base Closure and Realignment Commission, and public utility commissions. The bipartisan, 10–member Commission would work with U.S. DOT, state and local officials, and stakeholders to develop performance standards in the 10 focus areas. These performance standards, and the plans developed to achieve these standards, would be the basis for the national transportation strategic plan.

From this national transportation strategic plan, NASTRAC would determine the cost of financing the plan and would recommend "appropriate revenue adjustments" to Congress to implement the national transportation strategic plan. The NASTRAC recommendations would come before Congress and could be struck down by a two-thirds veto. If no actions were taken, the recommendations would become law, and no amendments would be permitted.

PROJECT DELIVERY

The Commission's report outlines several recommendations to streamline the delivery of transportation projects. The core of these recommendations revolve around the need to expedite the permit process within Federal agencies and to reduce redundancies in the National Environmental Policy Act (NEPA) Process, which requires environmental impact studies (EISs) to be performed for major Federal actions that significantly effect the environment.

To improve the NEPA process, the Commission recommends several reforms:

- Simplified NEPA process for projects with few significant impacts similar to the "1040 EZ tax return."
- Revise the Council on Environmental Quality (CEQ) regulations to allow a single EIS in the NEPA Process rather than the current requirement for a draft and final EIS.
- Revise CEQ regulations to narrow the number of "reasonable alternatives" based on project-level decision, community values, and funding realities.
- Make changes to the early planning process, such as handling impact identification and mitigation issues early in the planning process in an integrated fashion.
- Encourage the Federal Highway Administration to set minimum conditions to determine general project location, modal choice, and develop a risk management plan during the scoping period.
- Finally, the "risk design" approach should be standardized so that project sponsors can begin design activities at risk during the EIS process.

The Commission also recommended improvements to expedite the permit process. Greater coordination requirements among Federal agencies should be implemented, including setting time limits for review of permits, using federal transportation funds to pay for regulatory staff to speed reviews, and establishing a cabinet-level appeal process where U.S. DOT can seek redress for adverse decisions.

Several of these recommendations were addressed in SAFETEA-LU. Under the environmental review process, the lead federal agency is provided an opportunity to define the project's purpose, need, and establish alternatives as early as practicable in the process. Additionally, to limit delays to projects, Congress must be notified of any delays greater than thirty days, and a 180-day statute of limitation was imposed for lawsuits challenging Federal agency approvals.

GENERATING THE REVENUES NECESSARY TO IMPLEMENT THE PLAN

The Commission report found that a significant increase in investments will be required by all levels of government and the private sector to develop, construct and maintain the transportation system necessary to meet the Nation's current and future passenger and freight mobility and access needs. The report found that the annual investment requirement to improve the condition and performance of all modes of surface transportation—highways, bridges, public transit, freight rail and intercity passenger rail—ranges between $225 and $340 billion by all levels of government and the private sector.

To generate the revenue to achieve this level of investment, the Commission recommends increasing the Federal motor fuel excise tax by between 25 and 40 cents per gallon to achieve this investment target with the traditional Federal share of 40 percent of total transportation capital costs. The report also recommends that any rate increase be indexed to inflation and/or construction material costs, and phased in over five years.

The Commission calls for the motor fuel excise tax to be the primary recommended user fee because the excise tax will continue to be a viable revenue source for surface transportation at least through 2025. The report calls for the identification of an alternative user-based revenue source to be phased in beyond the 2025 timeframe. The Commissioners believe that a vehicle miles traveled fee is a promising alternative revenue source, provided that substantial privacy and collection cost issues can be addressed.

Under the Commission's recommendations, a restructured and renamed Highway Trust Fund ("HTF") would be retained—the Surface Transportation Trust Fund ("STTF"). The STTF revenue would be dedicated to surface transportation investment, and would retain many aspects and structural features of the HTF, such as budgetary firewalls, and Revenue Aligned Budget Authority ("RABA").

The Commission also recommends establishing other user-based fees to assist in meeting the investment shortfall, such as designating a portion of current Customs duties or imposing a container fees for freight projects, and/or creating ticket taxes for passenger rail and public transportation improvements. They also call for tax incentives to expand intermodal networks; and recommend increased utilization of "congestion pricing" on Federal-aid highways in major metropolitan areas and expanded flexibility for tolling the Interstate, as long as these alternatives protect the public interest and the revenues generated are restricted to transportation purposes in the travel corridors where the fees are imposed. The report also calls for encouraging public-private partnerships provided that conditions are included to protect the public interest and the movement of interstate commerce.

COMMENTS FROM COMMISSIONERS NOT SUPPORTING THE COMMISSION'S FINAL RECOMMENDATIONS

Three members of the Commission, including Commission Chair Secretary of Transportation Mary Peters, did not support the report's recommendations. This minority cites the decline in system performance and the politicization of investment decisions as today's most pressing transportation problems, and recommends using the principle of supply and demand to solve them. They assert that congestion and system unreliability will worsen if we continue to rely on a "Federal-centric tax-based financing and regulatory system" that does not give enough control to State and local governments.

The minority recommends sustaining current motor fuel and diesel excise levels, while shifting more financial responsibility to private sector investors and the public as a whole through increased tolling, congestion pricing, and public-private partnerships. They also recommend a Federal role that is limited to maintaining the Interstate System, alleviating freight-related bottlenecks, and providing States with analysis, incentives, and flexibility regarding the adoption of market-based reforms for their highway systems.

Though the minority finds several areas of agreement with the majority's findings—such as the importance of the transportation system, the need for sustained investment, opportunities for simplification, consolidation, and streamlining of Federal programs, and the need for greater accountability and rationality in investment decisions—they generally disagree with the Commission's conclusions and recommendations. The minority's disagreements with the report are summarized in seven points:

1) The minority argues that Federal fuel taxes are not a solution to our surface transportation problems, and are ineffective, wasteful and regressive. They assert that the majority fails to adequately consider alternatives such as direct pricing. The Commission does envision replacing the fuel tax with a more direct user fee, such as vehicle miles traveled fee, in the year 2025, however, the minority would prefer this transition take place much sooner.

2) The minority characterizes the Commission's vision of the Federal role in a national transportation system as "unnecessarily large."

3) The minority disputes the definition of "needs" that the Commission used to estimate fuel tax calculations. They contend that there are far fewer transportation investments that are justifiable on a cost analysis basis than the report suggests.

4) The minority calls the Commission's proposal to create an independent governance commission ("NASTRAC") to oversee a national transportation plan "neither practical nor good policy."

5) The minority disagrees with the Commission's proposals to limit congestion pricing of Interstate highways to metropolitan areas of 1 million or more in population, and to restrict the use of toll and lease revenues to the facility being tolled or leased or to roads or facilities within the same corridor or network.

6) The minority suggests that the Commission takes an inconsistent approach to earmarking by recognizing the inefficiencies of earmarking while, at the same time, recommending that certain percentages of transportation funding be set aside for purposes outlined in the report.

7) The minority argues that the energy research and investment recommendations are more appropriately left to the Department of Energy.

PREVIOUS COMMITTEE ACTION

The Subcommittee on Highways and Transit held a hearing on January 24, 2007, regarding the nation's surface transportation system and the challenges and changes it will face 30 to 50 years into the future, as well as to examine how the system will need to adapt to support the changing and expanding economy.

The Subcommittee on Railroads, Pipelines, and Hazardous Materials met to hear testimony on the Benefits of Intercity Passenger Rail on June 26, 2007.

The Full Committee on Transportation and Infrastructure met on September 25th, 2007, to hear testimony on Rail Competition and Service.

The Committee on Transportation and Infrastructure held an earlier hearing on the Commission report on January 17, 2008.

WITNESS LIST

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Chair, The Honorable Mary Peters
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